



## POLICE DEPARTMENT

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In the Matter of the Disciplinary Proceedings :

- against - :

FINAL

Police Officer Avidan Santiago :

ORDER

Tax Registry No. 933325 :

OF

Military and Extended Leave Desk :

DISMISSAL  
-----X

Police Officer Avidan Santiago, Tax Registry No. 933325, having been served with written notice, has been tried on written Charges and Specifications numbered 2020-21927 and 2020-22175, as set forth on form P.D. 468-121, respectively dated March 20, 2020 and June 9, 2020 (amended February 16, 2021), and after a review of the entire record, Respondent is found Guilty.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Avidan Santiago from the Police Service of the City of New York.

  
DERMOT F. SHEA  
POLICE COMMISSIONER

EFFECTIVE: 7/8/21

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POLICE DEPARTMENT

May 27, 2021

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2020-21927
Police Officer Avidan Santiago	:	2020-22175
Tax Registry No. 933325	:	
Military and Extended Leave Desk	:	

-----X

At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Jeff S. Adler  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Jamie Moran, Esq.  
Christine McGrath, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For the Respondent: Craig Hayes, Esq.  
Worth, Longworth & London, LLP  
111 John Street, Suite 640  
New York, NY 10038

To:

HONORABLE DERMOT F. SHEA  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

## CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-21927

1. Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about and between November 2019 and March 19, 2020, failed to properly safeguard his off-duty firearm, a Kahr K9 9mm, Serial Number AR7336.

P.G. 204-08, Page 2, Paragraph 7 FIREARMS GENERAL REGULATIONS

2. Said Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about and between November 2019 and March 19, 2020, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that: after discovering that he could not readily locate his firearm, a Kahr K9, Serial Number AR7336, failed to immediately notify the Department.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT –  
PROHIBITED CONDUCT

Disciplinary Case No. 2020-22175

1. Said Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about January 20, 2020, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, in that: said Police Officer intentionally touched the buttocks of an individual known to the Department, without permission or authority.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT –  
PROHIBITED CONDUCT

2. Said Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about and between August 15, 2019 to October 6, 2019, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, in that: said Police Officer engaged in an inappropriate relationship with a complainant. (*As added*)

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT –  
PROHIBITED CONDUCT

3. Said Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about September 8, 2019, made and/or caused to be made, inaccurate entries in official Department reports. (*As added*)

P.G. 203-05, Page 1, Paragraph 4 PERFORMANCE ON DUTY –  
GENERAL

4. Said Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about September 8, 2019, after responding to a location that he reasonably expected to encounter an individual he wanted to arrest, said Police Officer failed to timely activate his Body Worn Camera. (*As added*)

P.G. 212-123, Page 2, Paragraphs 4 (e), 4 (n) and Page 3, Paragraph 8 USE OF BODY WORN CAMERAS

5. Said Police Officer Avidan Santiago, while assigned to the 115th Precinct, on or about September 8, 2019, after responding to a location that he reasonably expected to

encounter an individual he wanted to arrest for Grand Larceny, said Police Officer failed to notify a supervisor. (*As added*)

P.G. 202-21, Page 1, Paragraph 6      POLICE OFFICER

6. Said Police Officer Avidan Santiago, while assigned to the Military and Extended Leave Desk, on or about and between March 19, 2020 to January 28, 2021, failed to properly safeguard his Department issued Activity Log (PD112-145). (*As added*)

P.G. 212-08, Page 2, Paragraph 6      ACTIVITY LOGS

7. Said Police Officer Avidan Santiago, while assigned to the Military and Extended Leave Desk, on or January 28, 2021, while being questioned during an official Department interview, and asked about his relationship with a specific complainant, said Police Officer made misleading statements regarding the personal, intimate and sexual relationship he engaged in with a complainant.

P.G. 203-08      FALSE OR MISLEADING STATEMENTS

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on April 16, 2021 and April 22, 2021. Respondent, through his counsel, entered a plea of Not Guilty to Specification 1 under Case No. 2020-22175, and pleaded Guilty to the remaining charges under that case, as well as the charges under Case No. 2020-21927. The Department called Susana Baez and Police Officer Erika Dionicio as its witnesses. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty of the disputed count, as well as the charges to which he pled guilty, and recommend that Respondent be DISMISSED from the Department.

## ANALYSIS

These cases involve multiple charges alleging misconduct on various dates. Respondent has pleaded guilty to all but one of these charges, the most serious of which involved his engaging in an inappropriate relationship with a domestic violence complainant. Respondent

also admitted to making misleading statements in his Department interview when he was questioned about that relationship. These mitigation counts will be discussed separately, below. The disputed count, which alleges that Respondent wrongfully touched a woman's buttocks, will be considered first.

Specification 1 under Case No. 2020-22175 charges Respondent with wrongfully touching the buttocks of a female tenant who was involved in a dispute with the leaseholder of her apartment on January 20, 2020. The tenant, Susana Baez, testified that months earlier, she had reached an agreement with the leaseholder whereby she paid a sum of money to him in exchange for taking over the Queens apartment, where she lived with her mother and girlfriend. On the afternoon of this incident, the leaseholder attempted to enter the apartment, but was unable to do so because Baez had changed the locks. Respondent and his partner arrived at the scene, and Baez, who was trembling from fear that she might be arrested, showed Respondent the papers reflecting her agreement with the leaseholder. Respondent persuaded Baez to give a key to the leaseholder, which she did, and the leaseholder left. (Tr. 48-51, 76-81)

According to Baez, as she continued to show Respondent her papers, he placed his hand on her upper buttocks. Baez moved away, but Respondent stood next to her and again placed his hand on her buttocks. Respondent told Baez, who only speaks Spanish, she was lucky that he, a Hispanic officer, had responded to the scene, because another officer might have arrested her for changing the locks. Baez heard Respondent say something to his partner, who then left the apartment to go downstairs. Respondent tried to kiss Baez on the mouth, but she turned away so the kiss landed on her cheek. Respondent asked Baez for her phone number, which she provided. As he was leaving, Respondent made a comment about Baez's body. Baez, who was nervous about her experience with Respondent, called 311 the same day to make a complaint, and then went to a police precinct to file a report as instructed. She also told her husband (who



was living outside the country at the time) and her girlfriend what had transpired that day. (Tr. 51-63, 82-91, 96)

Minutes after leaving the apartment, Respondent began exchanging texts with Baez in Spanish. (Tr. 67, 91-92) Copies of those texts, along with their English translations, were admitted as Dep't. Ex. 1. Respondent initiates the exchange by stating, "It was a pleasure meeting you. I like you! I want to see you soon. I get out at 12am..." He ends that text with a kissing emoji. (Line 1) Baez responds with texts about the incident with the leaseholder, but Respondent redirects the conversation back to his desire to see her again: "Do what you need to my love...And what is happening with me and you babe?" (Lines 12-13) Baez tells Respondent that when he put his hand on her rear, she was dying of fear; Respondent asks her why she is scared, and jokes that he does not bite. (Lines 23-26) Respondent states, "When I saw you I said wow what a beautiful woman. I like you..." (Lines 37-38) Baez repeats, "That's why I got very nervous. When you put your hand in my rear, I got more scared," and Respondent answers, "I want to get to know you more?" (Lines 41-44)

In response to her complaint, IAB came to Baez's home to interview her. A detective was present with Baez during a separate series of texts on February 5, 2020. (Tr. 68, 93) Baez asks Respondent why he touched her rear, and why he wanted to kiss her. Respondent answers with two question marks, and states, "I don't understand your question my love." Baez repeats her question, and Respondent replies that he does not remember that. Respondent reiterates that he wants to spend time with Baez, and asks if he can pass by her house when he gets off work. (Dep't. Ex. 1, Lines 58-61, 69-69, 73, 79-85)

Also on February 5, 2020, Baez participated in a controlled telephone call with Respondent, which was recorded. (Tr. 71-72, 93) A recording of that call was introduced into evidence (Dep't. Ex. 2), along with the accompanying transcript which translates the call from

Spanish to English (Dep't. Ex. 2A). In that call, Respondent tells Baez that she made an impression on him, and Baez responds, "Oh, is that why you touched my ass? I can't get that out of my head, the fact that you placed your hands above my buttock and said something to your partner." Respondent asks if it bothered her, and Baez answers that she was petrified. Respondent later repeats that Baez got his attention, and made quite an impression on him. He also acknowledges that he told his partner to leave Respondent alone with Baez, so he could "chat her up."

Police Officer Erika Dionicio, assigned to Real Time Crime Center, testified that after passing a verbal and written test in 2016, she was certified by the Department as a Spanish-speaking translator. On April 16, 2012<sup>1</sup>, the first day of this trial, Officer Dionicio listened to the recorded phone call between Respondent and Baez (Dep't. Ex. 2), and compared it with the English translation previously prepared by another transcriptionist. Other than making a handful of changes to the transcription, Officer Dionicio confirmed that the translation was accurate. (Dep't. Ex. 2A). Officer Dionicio also reviewed the translation for the texts between Respondent and Baez (Dep't. Ex. 1), and confirmed the accuracy of that translation as well. The officer acknowledged that different cultures have their own colloquial slang, and that the Spanish word "trasero" which was translated as Baez's "rear" in the texts, also could refer to the back of a store – i.e. the rear entrance. (Tr. 106-14, 117-19)

Respondent testified that shortly after arriving at the scene, Baez was arguing intensely with the leaseholder. Concerned that they might hit each other, Respondent told his partner to keep the leaseholder off to the side, while Respondent dealt with Baez, who was screaming and frantically moving toward the leaseholder. Respondent claimed that he placed his hand on Baez's lower back in an attempt to calm her down and steer her away from the leaseholder; he denied ever placing his hand on her buttocks. After they were separated, Baez continued to

complain “like a broken record.” Respondent explained to Baez that she could be arrested for changing the locks, and that it was better to resolve the matter by giving a key to the leaseholder, which Baez agreed to do. (Tr. 136-44, 172-76, 181, 194)

Before leaving the apartment, Respondent gave Baez his personal phone number, since he felt bad for her, and they kissed each other on the cheek. According to Respondent, the exchange of kisses was merely “customary in the Latin culture.” Respondent acknowledged that he did text Baez later that same day, because he liked her, and he felt bad for her. (Tr. 143-45, 181-82, 193-94)

Respondent was arrested for forcibly touching Baez; the criminal charges are still pending in Queens. Baez also recently retained an attorney to explore filing a civil lawsuit against Respondent. (Tr. 94-95, 100-01, 163-64)

Specification 1 charges Respondent with intentionally touching the buttocks of Baez without her permission. The main evidence supporting the allegation was provided by Baez, herself, who reported Respondent’s behavior the same day, promptly related what occurred to her girlfriend and husband, and followed up with police in their investigation into the matter. At trial, Baez testified in a detailed, convincing manner about her interactions with Respondent. Although she was somewhat uncertain regarding where Respondent’s partner was during portions of the incident, overall Baez came across as sincere in her description of what transpired, and answered questions willingly; I credit her account, and reject Respondent’s claim that he merely placed his hand on her lower back to calm her down.

Specifically, I find that Respondent, acting on his attraction to Baez, intentionally placed his hand on her buttocks. Indeed, he did so more than once before leaving the apartment. Respondent provided additional evidence of his illicit intentions by kissing Baez on the cheek. He tried to justify the kiss as nothing more than a cultural act, but in light of the totality of their



interactions, I credit Baez's explanation that Respondent tried to kiss her on the mouth, but she turned away and the kiss landed on her cheek. It also is telling that Respondent exchanged phone numbers with Baez, providing her with his personal number.

Additional corroboration for Baez's account comes from Respondent, himself, who admitted at trial that he "liked" Baez. Respondent also made his interest in Baez clear through the text messages and phone call they exchanged after the incident. Just minutes after leaving the apartment on January 20, Respondent initiated a conversation with Baez, texting that he liked her, and wanted to see her when his shift ended at midnight; he concluded the text with a kissing emoji. When Baez tried to discuss the situation involving her leaseholder, Respondent steered the conversation back to his desire to get together with her, making clear that his interest in Baez was personal, not professional. Baez repeatedly emphasized that she was scared when Respondent placed his hand on her buttocks; it is clear from the context of the texts and call that when she used the word "trasero," Baez was, indeed, referring to Respondent having touched her "buttocks." Respondent texted back, "I don't bite," and then stated "I want to get to know you better." In the later series of texts two weeks later on February 5, he claimed not to remember touching her; however, during the controlled call that same day, Respondent provided further insight into his motivations when he acknowledged that he sent his partner away during the incident because he wanted to "chat up" Baez.

Taken as a whole, the texts and phone call reinforce Baez's account of her interaction with Respondent on January 20, 2020, while contradicting Respondent's attempts to minimize the reason he placed his hand on Baez and kissed her. The credible evidence has established that Respondent intentionally touched Baez's buttocks without her permission. Accordingly, I find Respondent guilty of Specification 1.

Regarding the mitigation counts under Case No. 2020-22175, Specifications 2-5, and 7 deal with Respondent's involvement with a domestic violence complainant, whom Respondent met in August of 2019 after she called 911 because she was terrified that her husband was going to kill her. After a domestic incident report was prepared, Respondent and the complainant exchanged personal phone numbers that same day, and they "became friends." Respondent testified that on one occasion he had sexual relations with the complainant inside her apartment, though he was unsure whether that occurred before or after her husband was arrested on September 8, 2019. He also was uncertain whether he had sex with her on more than that one occasion. He acknowledged, however, that during his Department interview on January 28, 2021, he initially denied having sexual relations with the complainant, claiming that he had his "own lady for that;" he maintained that denial several times before finally conceding that they did have sex. Respondent explained at trial that he had lied during the interview because he thought that the information was "extremely, extremely private;" he was embarrassed by what he had done, and felt uneasy discussing it in front of his two female questioners. He testified that he understands it was inappropriate to have physical relations with the complainant, and he regrets his actions. (Tr. 146-47, 158-61, 207-08, 213-17)

Respondent also admitted to additional misconduct in connection with the domestic violence complainant. When he and his partner were engaged in arresting the complainant's husband on September 8, 2019, Respondent did not activate his Body Worn Camera in a timely manner. Based on his training, he did not notify his supervisor in advance of the imminent encounter, even though, strictly speaking, he was required to do so. He also put an inaccurate description of the job over the radio, leading to inaccurate reports being generated; he described the job as a "pick-up," whereas it really was initiated by a call to him from the complainant. Separately, under Specification 6, Respondent admitted to failing to safeguard his activity logs,

some of which were lost when the building where they were stored was contaminated during the pandemic. (Tr. 153-58, 211-12)

Under Case No. 2020-21927, Respondent admitted that he failed to safeguard his firearm, and failed to notify the Department that the firearm was missing. When Respondent was suspended early in 2020 in connection with the Baez investigation and required to surrender his firearms, it was discovered that one of his guns was missing. Respondent explained that the firearm was one he no longer used, and so he kept in a safe. When Respondent moved in late-2019, the safe containing the firearm was misplaced by the movers. Respondent chose not to report the missing firearm, hoping that he would find it. (Tr. 162-63, 219-21)

## PENALTY

In order to determine appropriate penalties, this tribunal, guided by the Department's Disciplinary System Penalty Guidelines ("Disciplinary Guidelines"), considered all relevant facts and circumstances, including any aggravating and mitigating factors established in the record. Respondent's employment history also was examined (*See* 38 RCNY § 15-07). Information from Respondent's personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent was appointed to the Department on July 1, 2003. In 2013, Respondent forfeited 30 vacation days and paid restitution for multiple charges including obtaining insurance using an inaccurate address, and improperly allowing an individual to use his Department-issued MetroCard. In 2018, Respondent forfeited 20 vacation days and was placed on dismissal probation for charges including making inappropriate remarks to an individual, which caused her annoyance or alarm, and making improper inquiries on the Department computer. Respondent has been awarded three medals for Excellent Police Duty.

Respondent has been found guilty of improperly touching Baez's buttocks, and he also has pleaded guilty to multiple additional charges, the most serious of which were for engaging in an inappropriate relationship with a domestic violence complainant, and then repeatedly making misleading statements about that relationship during his official Department interview. The Department Advocate recommends termination; rather than relying on the Disciplinary Guidelines, the Advocate argues that Respondent, with his actions, has demonstrated that he cannot be trusted to interact with the public as a police officer. Counsel for Respondent asks that there should be some recognition of Respondent's 18 years with the Department, the financial hardships he will face if fired, and urges that "justice must be met with temperance." Respondent, himself, testified as to the hardships he will endure, and asked for "a little grace and mercy."

The Department prohibits misconduct that involves the abuse of authority. Where there is a sexual touching during an enforcement action, the presumptive penalty under the Disciplinary Guidelines is termination. When one considers the circumstances surrounding Respondent's placing of his hand on Baez's buttocks, including how he sent his partner away to be alone with Baez, kissed her before departing, gave her his personal phone number, and sent her text messages minutes later expressing his attraction to Baez and seeking to meet up with her after work, it is reasonable to conclude that Respondent touched Baez for the purpose of sexual gratification, and termination is warranted.

Respondent separately engaged in an inappropriate relationship with a domestic violence complainant, whose husband he was involved in arresting. Respondent had sexual relations on at least one occasion with the complainant. Again, Respondent took advantage of a vulnerable individual who placed her trust in him, and his behavior with that complainant also warrants his separation from the Department. Further, Respondent then falsely denied that relationship,

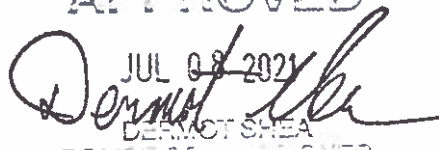
several times, when questioned during his official Department interview, before finally acknowledging it. Respondent testified that he initially was untruthful because he was embarrassed, but that claim is hard to reconcile with his brazen statement in the interview that he had his "own lady for that." Respondent also has admitted to other misconduct, including charges for his failure to safeguard his firearm.

Uniformed members of the service are responsible for the safety and security of the public. Those in need of assistance from the Department have every right to expect and demand the highest level of professionalism. Instead of living up to that responsibility, Respondent has engaged in a pattern of behavior where he exploits his position as a police officer to take advantage of the very people he is tasked to protect, prioritizing his personal gratification over their well-being. With his egregious actions in these cases, Respondent has demonstrated that he does not possess the sound judgment necessary to continue as a member of the Department. Taking into account the totality of the facts and circumstances in these matters, I recommend that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Jeff S. Adler  
Assistant Deputy Commissioner Trials

**APPROVED**  
JUL 08 2021  
  
DERMOT SHEA  
POLICE COMMISSIONER





## POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD  
POLICE OFFICER AVIDAN SANTIAGO  
TAX REGISTRY NO. 933325  
DISCIPLINARY CASE NOS. 2020-21927 & 2020-22175

Respondent was appointed to the Department on July 1, 2003. On his three most recent annual performance evaluations, he twice received ratings of “Meets Standards” for 2017 and 2018, and received a rating of “Exceeds Expectations” for 2019. He has been awarded three medals for Excellent Police Duty.

In 2013, Respondent forfeited 30 vacation days and agreed to pay restitution in the amount of \$384.75 after he pled Guilty to (i) obtaining insurance for his personal vehicles using an address in a county where he did not reside, (ii) failing to complete a required form after changing his residence, (iii) parking illegally and placing his Department issued restricted parking permit on the dashboard of his vehicle without police purpose, and (iv) allowing a civilian to use his Department MetroCard.

In 2018, Respondent forfeited 20 vacation days, was placed on one-year dismissal probation and agreed to cooperate with counseling after he pled Guilty to (i) utilizing a Department computer to access records not related to his assignment, (ii) failing to make proper Activity Log entries, and (iii) making inappropriate remarks to a female complainant, which caused her annoyance and alarm. In connection with that matter, Respondent was placed on Level I Discipline Monitoring from June 2017, through November 2018.

In connection with the instant matters, Respondent was suspended on both March 19, 2020, and June 5, 2020, and remains suspended to date.

For your consideration.

Jeff S. Adler  
Assistant Deputy Commissioner Trials